

CASE #16 - An Agreement Between Client and Structural Engineer for a Structural Condition Assessment

ABSTRACT

The purpose of this Document is to provide a sample Agreement for structural engineers to use when providing a structural condition assessment directly to a client. This may be required for upgrading the structure for an increase in imposed loads; for damage from fire, wind, or earthquake; for seismic retrofitting; for historic preservation or change in occupancy; or for adding new structures upon or adjacent to an existing structure.

As of 2015, the document was legally reviewed and the following changes were made:

1. In 5.3.2 added phrase that indicates SE will not be responsible for resultant delays.
2. In 6.2.1:
 - a. Combined and rewrote Client/Structural Engineer mutual indemnification.
 - b. Added sentence indicating that neither party has obligation to defend or pay for defense until one party has been found at fault and then only to the proportion found at fault.
3. Added paragraph 6.2.2 for indemnification from third party claims. This was added since the original indemnification only dealt with claims from one of the contracting parties.
4. In 6.3.1 Risk Allocation:
 - a. Added “or any third party”. This was done to get the client to limit the SE’s liability for a third party claim. This is an aggressive approach and has not been tested by case law.
 - b. Expanded language regarding attorney and expert fee costs.
 - c. Removed “or other amount agreed upon” to remove open-endedness.
5. In 7.2.2 reduced list of indemnitees.